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California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7000 0600 0027 1154 9116

April 14, 2006

Mr. Nabil Al-Hadithy, Hazardous Materials Manager
City of Berkeley Toxics Management Division
2118 Milvia Street, 3rd Floor
Berkeley, CA 94704

Dear Mr. Nabil Al-Hadithy:

The California Environmental Protection Agency (Cal/EPA) and the Office of Emergency Services conducted a program evaluation of the City of Berkeley Toxics Management Division Certified Unified Program Agency (CUPA) on October 5, 2005. The evaluation consisted of a review of program elements, an in-office program review and field inspections. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management.

The evaluation summary of findings identified no deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Evaluation Summary of Findings and I find that City of Berkeley Toxics Management Division Certified Unified Program Agency CUPA program performance meets or exceeds standards.

Cal/EPA also noted during this evaluation that the City of Berkeley Toxics Management Division Certified Unified Program Agency CUPA has worked to bring about a number of outstanding program implementations including the consolidation of storm water inspections into its routine Unified Program inspections. In addition, CUPA inspectors regularly look for violations of building code, zoning codes, and fire codes. The CUPA has also promulgated city ordinance Title 15 Section 15.12.060 "Applicability of California Accidental Release Program (CalARP)." We will be sharing these outstanding implementation examples with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Nabil Al-Hadithy
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,



Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Mr. John Paine (Sent Via Email)
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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, Ph.D.
Agency Secretary

**CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS**

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CUPA: Berkeley Toxic Management Division

Evaluation Date: October 5, 2005

EVALUATION TEAM

Cal/EPA: Dennis Karidis
OES: Brian Abeel

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management.

Questions or comments can be directed to Dennis Karidis at 916-327-9558.

	<u>Deficiencies</u>	<u>Preliminary Corrective Action</u>	<u>Timeframe</u>
1	No Deficiencies were identified	N/A	N/A

CUPA Representative

NABIL AL-HADITHY
(Print Name)

[Signature]
(Signature)

Evaluation Team Leader

Dennis Karidis
(Print Name)

Dennis Karidis
(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observation:** The CUPA does not always clearly identify on its checklist or inspection report whether violations found are minor, class II, or class I.

Recommendation: Add clarifying language or abbreviations to the inspections checklist/report to allow for classification of each violation noted.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA consolidates storm water inspections into its routine Unified Program inspections. In addition, CUPA inspectors regularly look for violations of building code, zoning, fire code, etc.
2. Upon inception as a CUPA for the City of Berkeley in 1997, nearly 35 facilities were identified at or above RMPP thresholds. 10 were not able to change chemicals or reduce quantities required to submit RMPPs. Of those 10 facilities, 4 were carried over into the CalARP program. As a result of changing chemical processes and reducing quantities, there are now only 2 CalARP facilities remaining within the city.

The CUPA promulgated a city ordinance Title 15 Section 15.12.060 "Applicability of California Accidental Release Program (CalARP)." This ordinance reads "If the hazardous materials manager determines there to be a greater risk due to the nature of the material stored, the method of storage, location, operations, history of facility, or other concern, the hazardous materials manager may require a facility to prepare a RMP and be subject to Article 2, Division 20 of the California Health and Safety Code even if quantities of regulated substances are less than State threshold quantities as defined in Section 25532(j), Chapter 6.95, Division 20 of the California Health and Safety Code."

The CUPA issued Notices of Violation (NOV) to Berkeley Iceland indicating several violations of the Health and Safety Code. Berkeley Iceland has appealed to the City Manager requesting a single enforcement process to address the violations for each of the codes. This appeal process means the facility did not meet the compliance deadlines required in the CUPAs NOV and audit. Berkeley Iceland was also referred to the Alameda County District Attorney and the City Attorney. In August 2005, the DA and CA met with Iceland for an enforcement hearing.
3. The CUPA is the lead agency for clean-ups of contaminated soils and ground water.
4. The CUPA has offered training to its regulated businesses including Designated Operator Training, HMBP Training, Pollution Prevention Training for dentists, and commonly refers businesses to training available throughout Alameda County
5. The CUPA participates in the following meetings: Enforcement Meetings with the County DA (monthly), Alameda County Fire Chiefs Association (monthly), UST TAG/Roundtables, LEPC, Regional Forum Meetings, Community Environmental Advisory Commission, and the Emergency Operations/Plans and Intelligence Group.
6. The CUPA has a tremendous wealth of information available to the public on its website.
7. The CUPA is in the process of completing its first Administrative Enforcement Order.
8. The CUPA routinely refers cases to the Alameda County District Attorneys Office.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

9. The CUPA issued 5-year permits to all facilities in the Unified Programs on January 16, 2002. New facilities have been issued a one-year permit expiring in December 31, 2005. All permits will be valid for a period of one year.

10. The CUPA has established procedures that flag all Unified Program facilities and contaminated sites. Any development on any of these sites is then referred to the CUPA for review and approval.